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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/831,279      | 06/07/2001  | Ritva Laijoki-Puska  | 1390-0124P          | 4240             |

2292 7590 11/21/2001

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EXAMINER

VARNER, STEVE M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3635     |              |

DATE MAILED: 11/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | Application No. | Applicant(s)        |
|------------------------------|-----------------|---------------------|
|                              | 09/831,279      | LAIJKI-PUSKA, RITVA |
| Examiner                     | Art Unit        |                     |
| Steve M Varner               | 3635            |                     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 June 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

## DETAILED ACTION

The National Aquarium in Baltimore was built in 1981. (Page 5)

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 7, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“Essentially,” is indefinite in line 7 of claim 1.

“Such,” “suitably,” and “favorably” are indefinite in line 3, 5, 7, respectively of claim 2.

“Favorably,” is indefinite in line 7 of claim 4.

“Suitably,” is indefinite in line 3 of claim 7.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 9, are rejected under 35 U.S.C. 102(b) as being anticipated by National Aquarium in Baltimore.

Regarding claim 1, the National Aquarium in Baltimore shows a spatial structure having wall (B) and roof (A) structures, which define one interior space, separated from

the ambient air in a unitary interior space. (Page 22) Climate in each separate space can be separately regulated. (Page 4)

Regarding claim 2, separate spaces have different activities, different climate control, and can be seen through a transparent wall (C). (Page 1-4, 22)

Regarding claim 3, there are Nordic areas. (Page 22)

Regarding claim 5, there is a separate space (D) outside of the unitary space. (Page 21)

Regarding claim 6, there are natural plants and animals. (Page 1-3)

Regarding claim 9, National Aquarium at Baltimore sits in the outdoor climate of Baltimore and has separate climate controlled spaces. (Page 4)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 7, 8, 10-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over National Aquarium in Baltimore.

Regarding claim 4, 10, National Aquarium in Baltimore shows refrigeration and heating. (Page 17) It does not show the heat from the refrigeration process being used to heat other spaces. It would have been an obvious design choice to use the excess heat in this manner since this would be a good conservation of energy practice.

Regarding claim 7, 11, National Aquarium in Baltimore does not show seasonal variation of temperatures in its separate spaces. It would have been an obvious design choice to regulate the temperature in the separate spaces to mimic seasons since many of the habitats in the separate spaces have seasonal variation in temperature in their naturally occurring state.

Regarding claim 8, 12, National Aquarium in Baltimore has a Nordic water area with water animals like puffins. (Page 4) It does not show ice cover with holes in it for winter swimming. It would have been an obvious design choice to lower the temperature further to produce ice as ice is often found in Nordic areas. The puffins would keep holes in the ice.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

